

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES,

Plaintiff,

v.

Criminal Case No. 05-80231-1
Honorable Patrick J. Duggan

MICHAEL D. ELLIOTT,

Defendant.

**OPINION AND ORDER DENYING DEFENDANT'S MOTION TO MODIFY AN
IMPOSED TERM OF IMPRISONMENT PURSUANT TO 18 U.S.C. § 3582**

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on March 19, 2009.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

On June 5, 2006, Defendant pleaded guilty to one count of conspiracy to possess with intent to distribute and to distribute a controlled substance. On December 12, 2006, this Court sentenced Defendant to 60 months of imprisonment. Presently before the Court is Defendant's motion to modify the term of his imprisonment pursuant to 18 U.S.C. § 3582(c)(2), filed *pro se* on April 21, 2008. The Government filed a response to the motion on February 5, 2009. For the reasons that follow, Defendant's motion is denied.

In his pending motion, Defendant seeks a reduction of his sentence based on the recent amendment to the United States Sentencing Guidelines relating to crack cocaine.

However, as the Government indicates in its response, Defendant was sentenced for conspiracy to possess with intent to distribute and to distribute cocaine, not crack cocaine. Therefore, the Court concludes that Defendant is not entitled to a reduction in his sentence based on the amendment to the Sentencing Guidelines.

Accordingly,

IT IS ORDERED, that Defendant's Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2) is **DENIED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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